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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,405	12/21/2000	William E. Webler	1275.24US01	4564

7590 02/14/2003

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT

PAPER NUMBER

3763

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,405

Applicant(s)

WEBLER, WILLIAM E.

Examiner

Roz Ghafoorian

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3763

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5 and 7-16, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S Patent No.6332881 to Carner et al.

Carner teaches a surgical ablation tool. Carner's apparatus comprises of a elongated shaft 300, with a proximal and distal sections, first lumen 210, a distal tip which has an opening 232 in fluid communication with the first lumen 210 and which is oriented at an angle 340 (J-shaped) with respect to a longitudinal axis of the shaft; as well as, a guide member 220 within the shaft 300, and a stabilizing member 240 and 270. Distal shaft section of the apparatus is provided with an electrode 260, with an electrical connector 270 to the proximal portion of the shaft. (Col. 8, lines 20-45). The elongated shaft 300 consists of multiple lumens (fig 4).

2. Claims 1-3, 14, 19, 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No.5902268 to Saab.

St.Goar teaches an elongated tubular support member configured for intravascular advancement; an elongated shaft which has a proximal and distal shaft section with a first lumen 16 extending within the proximal and distal shaft section, and a distal end which has an opening 18 in fluid communication with the first lumen in the elongated

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shaft and which is oriented at an angle with respect to the longitudinal axis of the shaft; a guide member 11 which has proximal and distal shaft sections, which is disposed within the first lumen of the tubular support member, and a stabilizing member 13. percutaneously introducing the components of the system into the patient's venous system and advancing the system components within the patient's venous system until the distal extremity of the tubular support member disposed and stabilized within the patient's right atrium.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S Patent No.6332881 to Carner et al, and further in view of U.S Patent No.4969890 to Sugita et al.

As mentioned above Carner teaches the invention. However, Carner does not teach a guide wire with plurality of indicia on the core to measure axial movement of the shaft. Sugita teaches a catheter comprising of a guide wire 6 with indicia 40 placed on its core to measure the axial movement of the shaft.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined these two studies, because in any

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type if invasive procedure where the care giver has limited means of visualization of the effected area, any type of indicator that allows the physician to gage the location of the apparatus is an advantage and allows the physician to anticipated the anatomy of the patient without actual visualization of the area.

4. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.5902268 to Saab as applied to claims 1 above, and further in view of U.S Patent No.4969890 to Sugita et al.

As mentioned above Saab teaches the invention except for Carner does not teach a guide wire with plurality of indicia on the core to measure axial movement of the shaft. Sugita teaches a catheter comprising of a guide wire 6 with indicia 40 placed on its core to measure the axial movement of the shaft.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined these two studies, because in any type if invasive procedure where the care giver has limited means of visualization of the effected area, any type of indicator that allows the physician to gage the location of the apparatus is an advantage and allows the physician to anticipated the anatomy of the patient without actual visualization of the area.

Response to Arguments

5. Applicant's arguments filed 12-2-2002 have been fully considered but they are not persuasive.

- a. The applicant has argued Cranes is missing a guide member and stabilizing member, as indicated above Cranes does teach both elements and meets the limitations on claim 1.
- b. The applicant further argues that the examiner has no motivation for the 103 rejection, as stated above the motivation is "in any type of invasive procedure where the care giver has limited means of visualization of the effected area, any type of indicator that allows the physician to gage the location of the apparatus is an advantage and allows the physician to anticipated the anatomy of the patient without actual visualization of the area" it is not clear to the examiner which part of the motivation is not understood by the applicant.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

RG
February 6, 2003



**MICHAEL J. HAYES
PRIMARY EXAMINER**